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Supreme Court Holds That Foreign Plaintiffs Can Pursue Civil RICO Claims If They Suffered An Injury That Arose In The United States

Client Alert | June 22, 2023

Decided June 22, 2023 ***Yegiazaryan v. Smagin*****, No. 22-381 Today, the Supreme Court in a 6-3 decision rejected a bright-line rule that would have precluded foreign plaintiffs from pursuing civil RICO claims, and instead held that foreign plaintiffs can satisfy civil RICO's domestic-injury requirement if their injuries arose in the United States. Background:** The Racketeer Influenced and Corrupt Organizations Act (RICO) provides a private right of action that authorizes "[a]ny person injured in his business or property by reason of" a substantive RICO violation to sue for treble damages. 18 U.S.C. § 1964(c). In *RJR Nabisco, Inc. v. European Community*, 579 U.S. 325 (2016), the Supreme Court held that this private right of action extended only to domestic injuries, but did not address what constitutes a "domestic" injury.

In 2003, Russian businessmen Ashot Yegiazaryan and Vitaly Smagin partnered on a Moscow real estate project that collapsed in 2009. Yegiazaryan subsequently fled to Beverly Hills to avoid a Russian indictment. Smagin, who remained in Russia, then won an arbitration award against Yegiazaryan in London.

Smagin sued Yegiazaryan in California federal court to enforce the arbitration award. After Yegiazaryan engaged in a number of complex and fraudulent transactions to prevent Smagin from collecting on the California court's judgment in his favor, Smagin brought a civil RICO claim against Yegiazaryan, alleging that his actions to hide assets and avoid paying the California court's judgment on the arbitral award constituted a pattern of racketeering activities.

The district court dismissed Smagin's civil RICO claim, holding that he failed to satisfy RICO's domestic-injury requirement. The Ninth Circuit reversed, noting that Smagin confirmed the arbitral award in California and that Yegiazaryan's alleged misconduct to evade the California court's judgment occurred in California.

Issue: Whether foreign plaintiffs can suffer domestic injuries that would permit them to pursue a civil RICO claim. **Court's Holding:** Yes. Foreign plaintiffs can suffer an injury that is domestic depending on the facts and circumstances of the alleged RICO violation, as there is no rule that any injury suffered by a foreign plaintiff necessarily arises outside the United States.

> *"[I]n assessing whether there is a domestic injury, courts should engage in a case-specific analysis that looks to the circumstances surrounding the injury. If those circumstances sufficiently ground the injury in the United States, such that it is clear the injury arose domestically, then the plaintiff has alleged a domestic injury."*

Justice Sotomayor, writing for the Court

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What It Means:

- In holding that RICO's domestic-injury requirement can be satisfied based on the facts and circumstances surrounding the alleged injury, the Court rejected a bright-line rule that would look only to the plaintiff's place of residence as the place where the economic injury is experienced.
- Today's decision creates opportunities for judgment creditors to use RICO to pursue assets based on domestic conduct that allegedly injures property rights, including unlawful efforts to frustrate the enforcement of foreign judgments within the United States. In this case, the Court relied on allegations that the foreign plaintiff was "injured in his ability to enforce a California judgment, against a California resident, through racketeering acts that were largely 'designed and carried out in California' and were 'targeted at California.'" Slip. op. 8.
- The Court reaffirmed its longstanding requirement that a plaintiff's injury must be proximately caused by the defendant's substantive RICO violation. Slip op. 3 n.3.

The Court's opinion is available here.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the Supreme Court. Please feel free to contact the following practice leaders:

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